

**REMARKS**

Claims 15 to 30 are currently pending in the present application.

In view of this response, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

*It is respectfully requested that the Examiner acknowledge the claim for foreign priority and acknowledge receipt of the certified copy of the priority document in the next Office communication.*

The Office Action states that “[t]he disclosure should be carefully reviewed to ensure that any and all grammatical, idiomatic, and spelling or other minor errors are corrected.” (Office Action, p. 2). The Substitute Specification has been amended as to minor matters. No new matter has been added, and support is provided by the present application. Approval and entry are respectfully requested.

Claims 15 to 30 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent Application Publication No. 2003/0052690 (“Schoch”).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'l. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claim 15 has been rewritten. In particular, claim 15, as presented, relates to a method for determining state variables and parameters of a mathematical energy storage model by a state variable and parameter estimator, including the feature of *causing the state variable and parameter estimator to calculate the state variables and the parameters of the mathematical energy storage model from operating variables of an energy storage device, in which the state variable and parameter estimator includes a plurality of mathematical submodels that are validly applicable for at least one of different working ranges and different frequency ranges of the energy storage device, and in which the state variables and parameters are used to perform one of energy management and user management of an electrical network.*

The Schoch reference does not identically disclose (or even suggest) all of the features of claim 15, as presented. The Schoch reference merely refers to a method for determining a battery state of charge based on battery voltage and current. (Schoch, ¶¶ 11 to 13, and 20). The Schoch reference does not identically disclose (nor suggest) the feature of causing the state variable and parameter estimator to calculate the state variables and the parameters, as provided for in the context of claim 15, as presented. The Schoch reference does not even refer to a state variable and parameter estimator. At most, the Schoch reference refers to calculating the battery state of charge.

Still further, the Schoch reference does not identically disclose (nor suggest) the feature in which the state variable and parameter estimator includes a plurality of mathematical submodels that are validly applicable for at least one of different working ranges and different frequency ranges of the energy storage device, as provided for in the context of claim 15, as presented. The Schoch reference only refers to a single model calculation. (Schoch, Figure 2). Indeed, the Schoch reference states that it is a “simple model approach having few parameters.” (Schoch, ¶ 6).

Thus, the Schoch reference does not identically disclose (nor suggest) the feature in which the state variable and parameter estimator includes a plurality of mathematical submodels. In addition, since the Schoch reference does not identically disclose (nor suggest) a plurality of mathematical submodels, the Schoch reference does not identically disclose (nor suggest) mathematical submodels that are validly applicable for at least one of different working ranges and different frequency ranges of the energy storage device. Claim 15, as presented, is allowable.

Accordingly, it is respectfully submitted that claim 15, as presented, is allowable, as are its dependent claims 16 to 23.

Claim 24 includes features similar to those of claim 15, as presented. Accordingly, it is respectfully submitted that claim 24 is allowable for essentially the same reasons provided above as are its dependent claims 25 to 30.

Accordingly, it is respectfully submitted that claims 15 to 30 are allowable.

Withdrawal of the rejections to these claims is therefore respectfully requested.

Claims 15 to 23 were rejected under 35 U.S.C. § 101 as “directed to a judicial exception without tangible result claimed.” The Office Action further states that “[m]erely calculating and ascertaining would not appear to be sufficient to constitute a tangible result since the outcome of the steps has not been used in a disclosed practical application no [sic] made available in such a manner that its usefulness in a disclosed practical application can be realized.” (Office Action, p. 3).

While the rejections may not be agreed with, to facilitate matters, claim 15, as presented, has been rewritten to provide a method for determining state variables and parameters of a mathematical energy storage model by a state variable and parameter estimator, including the feature in which *the state variables and parameters are used to perform one of energy management and user management of an electrical network*. Claim 15, as presented, finds support in the Substitute Specification at page 1, lines 6 to 14.

Accordingly, it is respectfully submitted that claims 15 to 23, as presented, include a tangible result, which involves performing one of energy management and user management of an electrical network.

Withdrawal of the Section 100 rejections is therefore respectfully requested.

In sum, claims 15 to 30 are allowable.

**Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

Respectfully submitted,

Dated: 11/30/2007

By:

Gerard A. Messina  
Reg. No. 35,952

KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200

**CUSTOMER NO. 26646**

1433738